

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: KERR, Gordon; PILLAR, John, F.; LENGACHER, Allen, W.
Serial No.: 09/995,697
Filed: November 29, 2001
Title: STREAM PROCESSING NODE
Group: 2157
Examiner:
Attorney Ref.: PAT 2678-2 US

August 2, 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia
22314-1450
U.S.A.

Dear Sir:

**PETITION TO THE DIRECTOR UNDER 37 C.F.R. 1.181 CONTESTING
THE HOLDING OF NONCOMPLIANCE OF APPLICANT'S APPEAL BRIEF**

Applicant hereby petitions to challenge the holding of noncompliance of the Appeal Brief last amended on 22 February 2007. The Notification of Non-Compliant Appeal Brief, dated July 16, 2007, incorrectly alleges that the Appeal Brief does not comply with 37 C.F.R. 41.37 on the ground that the summary of dependent claims 2-25, 27-29 and 34-38 must refer to the specification and/or figures. Rule 41.37 (c)(1)(v) only requires that "for each dependant claim...every means plus function and step plus function...must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification...and to the drawings." However, claims 2-25, 27-29 and 34-38 are not means plus function or step plus function claims. Accordingly, applicant respectfully submits that the appeal brief complies with the requirement of the rule and that the Notification of Non-Compliant Appeal Brief is without basis.

In light of the foregoing, Applicant requests that the petition be granted and the Applicant's Appeal Brief be held to be fully compliant with 37 C.F.R. 41.37.

Due to the pending Final Office Action deadline of August 16, 2007, Applicant respectfully requests urgent attention to this matter.

Appln. no. 09/995,697
Petition dated August 2, 2007
Notification of Non-Compliant Appeal Brief dated July 16, 2007

No fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account.

Respectfully submitted,

KERR, Gordon et al

By: /Jeffrey M. Measures/

Jeffrey M. Measures
Reg. No. 40,272

Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa, ON K1P 1J9
CANADA
Tel: (613) 237-5160
Fax: (613) 787-3558
E-mail: ipinfo@blgcanada.com

JMM/CAO/dbm

OTT01\3257692\1